

COUNTY OF SAN DIEGO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject

Legislative Policy: Workers Compensation

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Purpose

To establish legislative policy to give direction to the Office of Intergovernmental and Public Affairs and Sacramento representatives of the County of San Diego regarding general and specific measures that the Board of Supervisors believes will have positive impact towards correction of recognized problems in the current Workers' Compensation system.

Background

In the course of self-administration of the County's Workers' Compensation program, it has become evident that the state laws relating to Workers' Compensation are in need of substantial revision. No such revision has taken place for over 30 years. A revision is necessary because of the gradual liberalization of existing law through judicial and administrative interpretation which has resulted in ever-broader theories of compensability, greatly expanded the types of included injuries and/or illness, and greatly increased the cost of the Workers' Compensation program. This liberalization has resulted in a Workers' Compensation system that is no longer in the best interest of the public.

Policy

It shall be the legislative policy of the County of San Diego with regard to Workers' Compensation to:

1. Oppose legislative efforts to increase the liability base of the County of San Diego for Workers' Compensation.
2. Oppose efforts to impose State controls and regulation over legally uninsured local governments such as the County of San Diego.
3. Oppose Workers' Compensation legislation that does not provide for Senate Bill 90 reimbursement to local governments for mandated cost increases.
4. Encourage efforts to change the basic interpretation of the Workers' Compensation laws from the present bias in all cases in favor of the employee/applicant to that of a charge to resolve disputes in the interests of equity and fairness to the employee and the employer.

Following are specific areas in which the Board of Supervisors believes legislative action should be pursued or supported:

1. Tightening requirements for proving cumulative trauma (stress and strain cases by amending the current law to provide that the employment must be a substantial contributing factor in order for a cumulative trauma claim to be held industrial.

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2. Providing for full apportionment of all Workers' Compensation costs to non-industrial factors.
3. Establishing a statute of limitations of three years for the filing of cumulative trauma cases.
4. Changing full salary provisions for safety employees by amending Labor Code Section 4850 to provide that the full salary leave of absence for safety employee will be at 75% of salary rather than full salary and that such leave of absence shall be granted only during the period the employee is unable to perform his/her duties and is entitled to temporary disability benefits under Workers' Compensation Law, but not to exceed one year.
5. Deleting the various "presumptive" Labor Code Sections pertaining to safety personnel under which heart trouble, pneumonia, and hernias in safety employees are presumed to be related to their job duties.
6. Amending the Government Code and the Labor code to establish a coordination of benefits between the retirement system, Social Security and the Workers' Compensation system in order to eliminate duplication of payments between these systems.
7. Establishing rules and regulations which would eliminate the provision for reimbursement of medical-legal costs where these additional expenses are not necessary.
8. Requiring that all employees seeking Workers' Compensation benefits proceed directly to their employer via administrative procedures before they can file an application for adjudication before the Workers' Compensation Appeals Board.
9. Amending the Labor Code to provide that an employer's interest credit when commutation or lump sum payment is granted will be based upon the prevailing interest rates being paid by savings and loan companies.
10. Amending Labor Code Section 3202 (the liberal construction clause) to restrict its application to certain specific issues.

Sunset Date This policy will be reviewed for continuance by 12-31-96.

Board Action
2-16-78 (7)
12-11-84 (31)
12-15-87 (46)
8-8-89 (34)

CAO Reference

1. Department of Human Resources